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SENATE BILL 309

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO CAPITAL PROJECTS; ENACTING THE CAPITAL PROJECTS ACT; CREATING THE CAPITAL PROJECTS COUNCIL; PROVIDING PROCEDURES FOR EVALUATING AND PRIORITIZING PROPOSED CAPITAL PROJECTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Capital Projects Act".

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) the cost of needed state and local capital improvement and infrastructure projects annually exceeds the available funding resources;

(2) it has become difficult to evaluate and prioritize proposed capital outlay projects adequately to

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1 ensure that the available resources are expended in the most
2 cost-effective manner; and

3 (3) the current system for evaluating and
4 prioritizing proposed capital outlay projects could be improved
5 by delegating those functions to a coordinating council.

6 B. The purpose of the Capital Projects Act is to
7 create a council of experts to evaluate and prioritize proposed
8 statewide and local capital outlay projects and to monitor and
9 oversee projects authorized by the legislature to ensure that
10 appropriations are expended in the most cost-effective manner.

11 Section 3. DEFINITIONS.--As used in the Capital Projects
12 Act:

13 A. "capital project" means repair, renovation or
14 construction of a facility; purchase of land; acquisition of
15 capital equipment of a long-term nature; and repair, renovation
16 or construction of roads and water and wastewater systems; and

17 B. "council" means the capital projects council.

18 Section 4. CAPITAL PROJECTS COUNCIL--CREATION--
19 APPOINTMENT.--

20 A. The "capital projects council" is created. The
21 council shall consist of the following members:

22 (1) three members, appointed by the governor,
23 who may be cabinet secretaries or public members;

24 (2) three members appointed by the president
25 pro tempore of the senate;

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1 (3) three members appointed by the speaker of
2 the house of representatives;

3 (4) the state engineer or the state engineer's
4 designee;

5 (5) the secretary of higher education or the
6 secretary's designee;

7 (6) the executive director of the New Mexico
8 municipal league or the executive director's designee;

9 (7) the executive director of the New Mexico
10 association of counties or the executive director's designee;

11 (8) the chief executive officer of the New
12 Mexico finance authority or the chief executive officer's
13 designee; and

14 (9) one member, appointed by the governor,
15 representing Indian nations, tribes and pueblos.

16 B. The appointed members shall serve at the
17 pleasure of the appointing authority. If the governor appoints
18 public members, they must have expertise in capital financing,
19 planning or construction.

20 C. The council shall elect a chair and such other
21 officers as it deems necessary. The council shall meet at the
22 call of the chair, not less than quarterly. Public members of
23 the council may receive per diem and mileage pursuant to the
24 Per Diem and Mileage Act.

25 Section 5. CAPITAL PROJECTS COUNCIL--POWERS--DUTIES.--

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A. The council may:

(1) subject to legislative appropriation, appoint and employ such professional, technical and clerical assistance as it deems necessary to carry out the provisions of the Capital Projects Act;

(2) enter into those contracts necessary to carry out the provisions of the Capital Projects Act;

(3) conduct research and studies to improve the planning and prioritizing of capital projects and the allocation of available resources;

(4) apply for and receive grants and accept gifts, donations, bequests and devises in the name of the state to carry out the provisions of the Capital Projects Act;

(5) appoint such committees and subcommittees as necessary to perform its duties; and

(6) adopt rules necessary to carry out the provisions of the Capital Projects Act.

B. The council shall:

(1) prepare an annual operating budget for submission to the legislature;

(2) after July 1, 2010, accept proposals for capital projects, prioritize the proposals and, by December 1, 2010 and each year thereafter, make recommendations to the legislature for funding the prioritized projects;

(3) coordinate all planning, oversight,

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1 monitoring and reporting functions of state government
2 regarding capital projects authorized by law. All agencies,
3 institutions, instrumentalities and political subdivisions of
4 the state shall assist the council in complying with this
5 requirement. The provisions of this paragraph do not apply to:

6 (a) capital projects funded pursuant to
7 the Public School Capital Outlay Act;

8 (b) capital improvements funded pursuant
9 to the Public School Capital Improvements Act; and

10 (c) capital projects authorized by
11 legislation enacted after July 1, 2010 that specifically
12 exclude the capital project from the provisions of the Capital
13 Projects Act;

14 (4) develop criteria and procedures for
15 evaluating and prioritizing proposals for capital projects; and

16 (5) develop such reporting requirements for
17 capital projects as necessary to ensure that the projects are
18 being implemented in a cost-effective manner and consistent
19 with the original purpose of the legislation providing for the
20 project.

21 Section 6. CAPITAL PROJECTS PRIORITIZATION.--

22 A. After July 1, 2010, any agency, political
23 subdivision, instrumentality or institution of the state may
24 submit a proposal for a capital project to the council. Each
25 proposal shall contain:

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1 (1) a detailed description of the proposed
2 project;

3 (2) an explanation of the need for the
4 proposed project;

5 (3) a description of the prime beneficiaries
6 of the proposed project;

7 (4) the estimated total cost of the proposed
8 project and an explanation of how the cost was derived;

9 (5) the amount and source of any other
10 funding;

11 (6) a copy of the maintenance plan for the
12 facility, capital equipment, road or system that is the subject
13 of the capital project;

14 (7) an explanation of how the project will be
15 implemented and maintained and the amount and source of
16 estimated implementation and maintenance costs; and

17 (8) any other information required by rule of
18 the council.

19 B. Upon receipt of a proposal, the council shall
20 investigate the statements and facts contained in the proposal
21 and shall conduct such site visits and hearings as it deems
22 necessary. The council shall consider all proposals, including
23 the maintenance plan, and, after a public hearing, shall list
24 all proposals in order of priority.

25 Section 7. TEMPORARY PROVISION.--During fiscal year 2010,

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1 the capital projects council shall organize and perform its
2 duties pursuant to the Capital Projects Act; except that the
3 council shall not accept and prioritize proposals and make
4 recommendations to the legislature until after July 1, 2010.
5 The council shall submit to the second session of the forty-
6 ninth legislature the criteria and procedures for evaluating
7 and prioritizing proposals and the reporting requirements
8 developed pursuant to the Capital Projects Act together with
9 any recommendations of the council for proposed legislation.

10 Section 8. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2009.

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